

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

MILTON J. TAYLOR,

Petitioner-Appellant.

v.

No. 00-6059

STEVEN DEWALT, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
Leonie M. Brinkema, District Judge.
(CA-99-615-AM)

Submitted: May 23, 2000

Decided: June 19, 2000

Before LUTTIG, WILLIAMS, and KING,
Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Milton J. Taylor, Appellant Pro Se. Rachel Celia Ballow, OFFICE OF
THE UNITED STATES ATTORNEY, Alexandria, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

Milton Joseph Taylor, a former federal inmate, seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C. § 2241 (1994). Taylor completed his sentence and was released from custody on October 26, 1999, the same day the district court's order was entered on the docket. A copy of the court's order was mailed to Taylor at his new address on November 3, 1999. Taylor's notice of appeal was received in the district court on December 28, 1999, one day late. We note that because Taylor was not incarcerated when he noted his appeal, he does not benefit from Houston v. Lack, 487 U.S. 266 (1988).

Parties are accorded sixty days if the United States is a party after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). Because Taylor failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED